

**UNIFORM RULES ON DISPUTE RESOLUTION
SUMMARY OF MAJOR PROVISIONS**

RULE 1. SCOPE, APPLICABILITY AND PURPOSE OF RULES. The Rules govern court-connected dispute resolution in the Trial Court. Only Rule 9 (the ethical standards) applies to court-connected dispute resolution in the appellate courts. If the Rules conflict with other court rules, the other court rules govern.

RULE 2. DEFINITIONS. Defines key terms used in the rules. “Court-connected dispute resolution services” means ADR services provided as a result of a court referral, which includes providing a party with the name of one or more ADR provider or directing a party to a particular ADR provider. “Neutral” means a mediator or other ADR practitioner.

RULE 3. ADMINISTRATIVE STRUCTURE FOR COURT-CONNECTED DISPUTE RESOLUTION SERVICES. Provides for the appointment of a Standing Committee on Dispute Resolution, to advise the courts’ leaders about ADR. Each Trial Court department may appoint an ADR advisory committee and designate an ADR director. Each local court is required to designate an ADR coordinator. The Trial Court is to provide ADR advice and consultation if funds are available.

RULE 4. IMPLEMENTATION OF COURT-CONNECTED DISPUTE RESOLUTION. Each Trial Court department Chief Justice is required to approve programs qualified to receive court referrals, and the Trial Court will distribute a combined list of approved programs. Each Trial Court department must prepare an annual ADR plan and seek funds needed for ADR under the plan. Mandatory ADR is limited to approved pilot programs which meet certain criteria. Contracts with ADR programs must be awarded through a competitive process. Contracts may provide funds, provide for a court to refer all or most cases to the program, or both.

RULE 5. EARLY NOTICE OF COURT-CONNECTED DISPUTE RESOLUTION SERVICES. Clerks are required to provide information about court-connected dispute resolution services to attorneys and unrepresented parties.

RULE 6. DUTIES OF COURTS WITH RESPECT TO COURT-CONNECTED DISPUTE RESOLUTION SERVICES. Courts may refer cases only to approved ADR programs, and must attempt to distribute cases fairly among approved programs, taking into account geographic proximity and other factors. A court may send all or most of its cases to one program if it has a contract with that program under Rule 4. Courts may require parties and/or attorneys to attend ADR screening sessions, may set deadlines for ADR processes, and may provide space for ADR sessions.

RULE 7. DUTIES OF APPROVED PROGRAMS WITH RESPECT TO COURT-CONNECTED DISPUTE RESOLUTION SERVICES. Approved programs are required to undergo regular monitoring and evaluation, to develop and comply with written policies and procedures, to assemble and update rosters of neutrals through fair processes, and to orient and supervise neutrals. Programs may charge fees approved by the Chief Justice of the

Trial Court department.

RULE 8. QUALIFICATION STANDARDS.

Introduction. Rule 8 defines the qualification standards for neutrals who provide court-connected dispute resolution services. It establishes training, mentoring and evaluation continuing education and evaluation requirements for seven categories of neutrals—mediators, arbitrators, case evaluators, conciliators, mini-trial neutrals, summary jury trial neutrals, and dispute intervenors. The general qualification requirements are set out in the Rule itself. The details of each qualification requirement are set out in the Guidelines which were promulgated to give trainers and program directors the guidance they need for creating and maintaining rosters of qualified neutrals.

Standard Requirements. All neutrals must be trained, mentored and evaluated in accordance with the Rule and the Guidelines in order to provide court-connected dispute resolution services. The exact length of the training for each process is set out in the Rule for that specific process. In addition, to remain qualified most neutrals must perform continuing education and participate in continuing evaluation.

Alternative Methods. This section of the Rule provides a substitute way to satisfy the qualification requirements of Rule 8. The alternative method permits previous training, mentoring and evaluation experiences substantially equivalent to the standard requirements. This provision was created to assist neutrals who were trained in another state or received training before the adoption of Rule 8.

Guidelines. Rule 8 requires the Chief Justice for Administration and Management to create Guidelines for Implementation of Qualifications standards for neutrals. The guidelines contain specific requirements for each ADR process concerning training, mentoring and evaluation; a skills check list for competency; and a description of the types of prior experience needed to fulfill the alternative method for satisfying the qualifications requirements.

RULE 9. ETHICAL STANDARDS

Introduction. If there is a conflict between the Ethical Standards and the Rules of Professional Responsibility, the Rules of Professional Responsibility control. Some of the provisions of the Ethical Standards apply to mediation and other consensual conflict resolution processes and not to arbitration.

Impartiality. Impartiality means freedom from favoritism or bias in conduct and appearance. A neutral must be impartial regarding the parties and the subject matter. If a neutral cannot be impartial at any point in the process, he or she must withdraw even if the parties do not object.

Informed consent. The neutral must make all reasonable efforts to help each party understand the process and the agreement and to ensure that each party consents to any agreement. If the neutral thinks a party is unable to participate effectively, the neutral should limit the scope of the process or end it. A neutral should tell a party if the neutral believes the party needs the assistance of a lawyer or other expert information or advice in order to reach an informed agreement. A neutral may give information to the parties but may not give legal advice,

counseling or other professional services. The neutral must inform the parties that they may withdraw from the process at any time for any reason. The neutral must not coerce the parties to reach an agreement. In dispute intervention, the neutral must, while remaining impartial, raise questions so the parties may consider whether they have the information they need to reach a fair and fully informed agreement.

Fees. The neutral must inform the parties of any fees that will be charged, to whom the fee is paid, and whether the parties may apply for a fee waiver or reduction. Before the process begins, there must be a written agreement between the neutral and the parties regarding the fee and the time and manner of payment. The neutral must not give or receive a fee for a referral. A neutral must not solicit or accept payment above the court-established fee.

Conflict of interest. A neutral must disclose all actual or potential conflicts of interest. A neutral should not serve if he or she knows of a conflict except under certain circumstances set out in the rule. A neutral must withdraw if a conflict is significant. A neutral may proceed if a conflict is not significant and the parties all consent. A neutral must avoid even the appearance of conflict.

Responsibility to non-participating parties. A neutral should consider and encourage the parties to consider the interests of persons--especially children--who are not participating in the process but who are affected by actual or potential agreements.

Advertising, soliciting or other communications by neutrals. Neutrals must be truthful in advertising and must not make claims of specific results or benefits of the process which imply favor of one side over another.

Confidentiality. All information obtained in a dispute resolution process is confidential except for limited exceptions detailed in the rule. Also, all information obtained in a private discussion with one party is confidential and will not be revealed to any other party without permission of the party from whom it was obtained. The neutral must inform the parties that he or she will not disclose information voluntarily unless required by law to do so.

Withdrawal. A neutral must withdraw if continuing in the process would violate an Ethical Standard or jeopardize the safety of a party or if the neutral cannot provide effective service. The neutral must attempt, while withdrawing, to protect the parties' safety and rights. A neutral may withdraw under certain specific circumstances set out in the rule.